

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

MICHAEL DAHN WEBB

Plaintiff,

v.

CAR-MART and BUBBA GREEN'S  
TOWING COMPANY

Defendants.

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Case No. 5:23-cv-80-RWS-JBB

**ORDER**

Before the Court is Plaintiff Michael Dahn Webb's complaint. Docket No. 1. Plaintiff, a prisoner confined at Bowie County Correctional Center, filed this civil action against Car-Mart and Bubba Green's Towing Company (collectively, "Defendants"). *Id.* The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636. The Magistrate Judge issued a Report recommending dismissal of the lawsuit without prejudice for lack of subject matter jurisdiction and for failure to obey an order of the Court. Docket No. 8.

On August 23, 2023, the Magistrate Judge ordered Plaintiff to (1) timely file an amended complaint that establishes federal question jurisdiction or diversity jurisdiction, or both; and (2) either pay the \$402.00 filing fee or file a proper motion to proceed *in forma pauperis* with an attached verified certificate of inmate trust account. Docket No. 2. The Magistrate Judge advised Plaintiff that failure to timely comply with the Court's order would result in a recommendation that Plaintiff's complaint be dismissed. *Id.* at 7–8. Although Plaintiff filed a motion to proceed *in forma pauperis* as ordered (Docket No. 6),<sup>1</sup> Plaintiff has not filed an amended complaint as ordered.

On September 27, 2023, the Magistrate Judge issued a Report recommending dismissal of the

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<sup>1</sup> Plaintiff also filed a Motion to Appoint Counsel (Docket No. 5) and Motion to Transfer Case to the Western District of Arkansas (Docket No. 4).

lawsuit without prejudice for lack of subject matter jurisdiction and for failure to obey an order of the Court. Docket No. 8. A copy of the Report was sent to Plaintiff at his last known address at the Walker-Sayle Unit in Breckenridge, Texas. *See* Docket No. 7. No objections have been filed to date.

Because no objections have been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

**ORDERED** that the Report of the Magistrate Judge (Docket No. 8) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-captioned action is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction and failure to obey an order of the Court. It is further

**ORDERED** that any pending motions in the above-captioned case are **DENIED-AS-MOOT**.

**So ORDERED and SIGNED this 1st day of November, 2023.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE